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Remarks

The various parts of the Office Action (and other matters, if any) are discussed below under appropriate headings.

Claim Amendments

Independent claims 3 and 20 have been amended to clarify features of the claimed electronic device, including, in particular, the movable physical member. Support for the amendments may be found in the specification at, for example, page 7, line 33 to page 10, line 33 and figures 2 through 4.

Claim Rejections - 35 USC § 103

Withdrawal of the rejection of claims 1–16 and 20 under 35 U.S.C. § 103(a) as being unpatentable over Wallace et al. (US 6,621,483) in view of Applicant's Admitted Prior Art (AAPA), further in view of Bower (US 2002/0072915), and in further view of Cyr et al. (US 5,559,943) respectfully is requested for the following reasons.

Claims 1 through 16

Independent claims 1 and 3, as amended, are directed to navigating in a backwards direction in a hierarchically organized menu system by removing a finger from a user surface and re-applying the finger to the surface within a set time limit. Claims 1 and 3 further recite, *inter alia*, that navigation in a backwards direction is performed without regard to the length of time that the finger is applied immediately preceding the removing and re-applying of the finger. According to amended claim 3, a timer is configured to start counting when the finger is removed from the user surface and stop counting when the finger is re-applied to the surface.

According to the claimed invention, the timer counting does not start until *after* the finger is removed from the user surface. That is, the claimed invention does not measure the length of time that a finger is initially applied to the user surface in order to

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perform navigation in a backwards direction. The cited references fail to disclose at least this feature of the claimed invention.

The Examiner now combines the teaching of a screen pointer in Wallace, the mention of a double click in Bower, and the discussion of hierarchically organized menu systems in the AAPA with the disclosure of a customizable double-click speed in Cyr to arrive at the claimed invention. However, the proposed combination of references does not teach or suggest each and every element of the claimed invention.

Recognizing the deficiencies in Wallace, Bower, and AAPA, the Examiner relies on the variable double-click speed taught by Cyr as disclosing the claimed feature of removing and re-applying a finger within a set time limit without regard to the length of time that the finger is applied immediately preceding the removing and re-applying of the finger. Not only does Cyr fail to disclose the claimed feature, but also the cited reference illustrates the differences between a conventional double-click and the claimed invention.

Cyr is directed to customizing the double-click speed of a mouse switch, as well as adjusting the area within which the hot point of the cursor can move during the double-click command. The dual actuation time, t , is measured beginning with a first actuation of the switch and ending with a second actuation of the switch. The time period t is then set as the length of time within which dual actuation of the switch must occur in order to effectuate future double-click commands. In this manner, the double-click speed may be continuously customized while the user uses the computer.

The Examiner contends that because Cyr teaches a variable double-click speed where the user can customize the time limit, Cyr discloses the claimed feature of without regard to the length of time that the finger is applied immediately preceding the removing and re-applying of the finger. On the contrary, Cyr is clearly concerned with the length of time that the switch is actuated before a second switch actuation. Cyr teaches measuring the entire time period between "when the user depresses the

primary switch 15 during the first switch actuation in step 104, and when the user releases the primary switch alter[sic] the second switch actuation in step 112" (col. 5, lns. 39–42). This measurement, in turn, determines the time interval within which a double-click must be completed in order to execute the associated command.

A side-by-side comparison of figure 5 of the instant application and figure 2 of Cyr, reproduced below, reveals clear differences between the claimed invention and the double-click method described in Cyr. According to the claimed invention, the timer starts counting once the finger is removed from the user surface. According to Cyr, t is set to 0 once the switch is depressed for the first time.

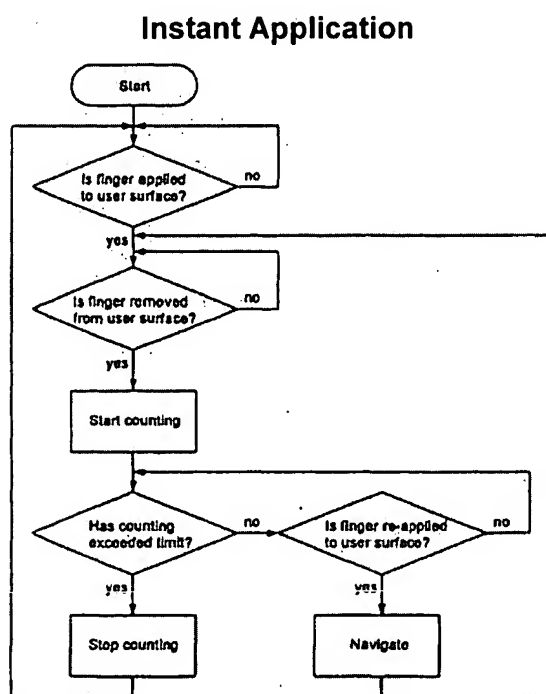


Fig. 5

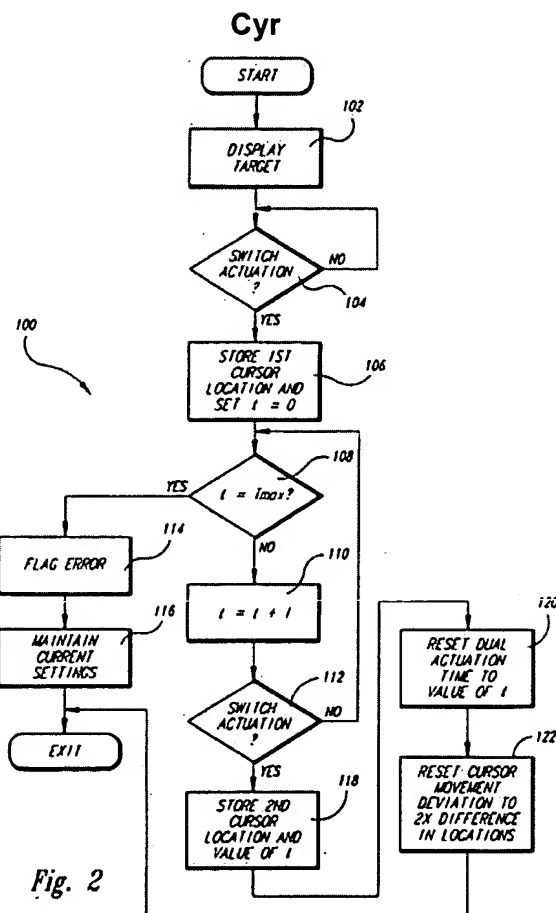


Fig. 2

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Figure 2 of Cyr also illustrates that the Cyr timer does not provide a count to determine the duration or length of time between removing the finger from the switch at the end of the first click and re-applying the finger to the switch at the beginning of the second click. And the Cyr disclosure has no appreciation of the need to count any length of time other than the total time between the dual actuations. In contrast, the claimed invention recites navigating in a backwards direction based on a timer that starts counting when the finger is removed from the user surface and stops counting when the finger is re-applied to the surface. Accordingly, Cyr, alone or in combination, fails to disclose all features of the claimed invention.

In fact, the Cyr description of a conventional double-click method bolsters statements made by the Applicant throughout prosecution of the present application when asserting that the double-click method does not read upon the claimed invention. For example, the Remarks section of the Amendment filed June 19, 2008 explains: "Unlike the claimed invention, a conventional double-click method requires two sequential clicks within a prescribed time period in order to initiate an action." The Cyr disclosure reiterates this point by stating that a double-click occurs when a user "rapidly actuates the button twice" (col. 1, Ins. 36–38) and defines a double-click speed as "an established time period within which the two button actuations must occur" (col. 1, Ins. 47–50).

The Cyr disclosure goes on to say, "If the user wishes to employ the double-click command on a particular object on the screen, the user must twice actuate the button within the established time period." In contrast, the claimed invention recites navigating in a backwards direction through a hierarchically organized menu system by removing a finger from a user surface and reapplying the finger within a set time limit without regard to the length of time that the finger is applied immediately preceding the removing and re-applying of the finger. Thus, the double-click discussion in Cyr illustrates that the conventional double-click does not read on the claimed invention.

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For at least the reasons above, the cited references, either alone or in combination, fail to teach or suggest the claimed invention. Therefore, the Examiner has failed to make out a prima facie case of obviousness.

Accordingly, claims 1 and 3, and all claims dependent therefrom, recite patentable subject matter.

Claim 20

Claim 20 recites, *inter alia*, carrying out navigation in a backwards direction in a hierarchy of commands by solely removing a finger from and reapplying said finger to a user surface of a moveable physical member within a set time limit. In the Office Action dated September 5, 2008, the Examiner does not specifically address the elements recited with specificity in claim 20. Regardless, the proposed combination of references does not disclose each and every element of claim 20.

As mentioned above, even if the screen pointer in Wallace, the double-click in Bower, the hierarchically organized menu systems in AAPA, and the variable double-click speed in Cyr are combined, the claimed invention would not result. Specifically, none of the cited references teach or suggest carrying out the claimed navigation by solely removing and reapplying a finger to a user surface.

Accordingly, claim 20 recites distinct and patentable subject matter.

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Conclusion

In view of the foregoing, request is made for timely issuance of a notice of allowance.

Respectfully submitted,

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